

# ORIGINAL

FILED  
U.S. DIST. COURT  
AUGUSTA DIV.

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

1998 NOV 16 AM 17

CLERK *B. McPartland*  
SO. DIST. OF GA

HERBERT E. BRETT, DAVID HANNAH, )  
WAYNE D. HATTAWAY, and JERRY O. )  
HUDSON, )  
Plaintiffs, )  
v. )  
JEFFERSON COUNTY, GEORGIA, )  
and CHARLES GARY HUTCHINS, )  
in his official capacity as SHERIFF, )  
JEFFERSON COUNTY, )  
Defendants. )

Civil Action File  
No. CV-193-144

**DEFENDANTS' BRIEF AND MEMORANDUM OF LAW IN SUPPORT  
OF THEIR MOTION FOR STAY OF JUDGMENT**

COME NOW JEFFERSON COUNTY, GEORGIA AND CHARLES GARY HUTCHINS, Defendants in the above-styled civil action, and file this their Brief and Memorandum of Law in Support of Their Motion for Stay of Judgment, in order to aid the Court in its resolution of this matter.

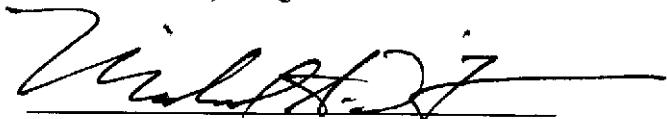
Pursuant to Rule 62 (d) of the Federal Rules of Civil Procedure, when an appeal is taken, the appellant may obtain a stay of proceedings to enforce the judgment against it as a matter of right by giving a supersedeas bond at or after the time of filing the notice of appeal. Houston Fire and Casualty Ins. Co. v. Ivens, 323 F. 2d 112 (5th Cir. 1963). The amount of the bond is usually an amount sufficient to satisfy the judgment with interest, though the Court has discretion in setting the amount of the bond to include costs or any damages for delay. Hoban

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v. Washington Metro Area Transit Authority, 841 F. 2d 1157 (D.C.Cir. 1988); Dillon v. City of Chicago, 866 F. 2d 902 (7th Cir. 1988). The stay will not become effective until the Court approves the bond.

The Court has entered a judgment against these Defendants in the total amount of \$1,394,383.49. Defendants will post a bond for this amount plus interest, should the Court require one. For all of these reasons, Defendants respectfully pray that the judgment against them be stayed pending their appeal to the Eleventh Circuit Court of Appeals.

BARNHART, O'QUINN & WILLIAMS



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**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION**

<b>HERBERT E. BRETT, DAVID HANNAH,</b>	)	
<b>WAYNE D. HATTAWAY, and JERRY O.</b>	)	
<b>HUDSON,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
<b>v.</b>	)	<b>Civil Action File</b>
	)	<b>No. CV-193-144</b>
<b>JEFFERSON COUNTY, GEORGIA,</b>	)	
<b>and CHARLES GARY HUTCHINS,</b>	)	
<b>in his official capacity as SHERIFF,</b>	)	
<b>JEFFERSON COUNTY,</b>	)	
	)	
<b>Defendants.</b>	)	
	)	

**CERTIFICATE OF SERVICE**

This will hereby certify that I, the undersigned, have this day served upon all parties the foregoing **DEFENDANTS' BRIEF AND MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION FOR STAY OF JUDGMENT** by placing a correctly addressed copy of same in the United States Mail, correct postage affixed thereto, to insure delivery to the following:

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This 13<sup>th</sup> day of November, 1998.

BARNHART, O'QUINN & WILLIAMS

  
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